

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEDRA DE LA ROSA,

Docket No.
13-cv-00696 (VEC) (SN)

Plaintiff,

STIPULATION OF FACTS

-against-

LEWIS FOODS OF 42ND STREET, LLC

Defendant.
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THE PARTIES HEREBY STIPULATE AND AGREE TO THE FOLLOWING FACTS:

1. Defendant Lewis Foods of 42nd Street, LLC (hereinafter referred to as “Lewis Foods”) operates a McDonald’s restaurant located at 220 West 42nd Street, New York, New York (hereinafter referred to as the “Restaurant”).
2. James R. Lewis is the owner of Lewis Foods.
3. Non-party Epic Candler LLC (“Epic Candler”) owns the land and the building, located at 220 West 42nd Street (a/k/a 221 West 41st Street), New York, New York (hereinafter also referred to as “Property”).
4. On March 29, 2010, James R. Lewis signed an Operator’s Lease agreement (hereinafter referred to as “Lease Agreement”) with non-party McDonald’s USA, LLC to sub-lease the premises of the Restaurant.
5. On April 13, 2010, Lewis Foods entered into a purchase and sale agreement with non-party McDonald’s Restaurants of New York, Inc. to purchase the assets of the Restaurant, not including the building or land where the Restaurant is located.
6. Lewis Foods took possession of the Restaurant in or around April 2010.

7. The Restaurant has a first floor ground level entrance from the public sidewalk on West 42nd Street.

8. Lewis Foods acknowledges that the Restaurant was presumably remodeled sometime between 2000 and 2008.

9. As of April 29, 2015, there were no ADA compliant dining tables on the area that defendant refers to as “the raised and lowered dining levels on the second floor” and that plaintiff refers to as the “mezzanine level and raised platform dining level on the second floor.”

10. Lewis Foods created a single-occupancy unisex handicap accessible bathroom on the first floor of the Restaurant.

11. As of April 29, 2015, the handicap accessible unisex bathroom on the first floor is kept locked. Next to the door to the unisex bathroom, a sign reads “Please ring buzzer for Access to Restroom.” There is also a button next to the unisex bathroom. When the button is pressed, an audible alarm and flashing strobe light are set off in the front of the kitchen area of the Restaurant where employees are located. When the alarm is triggered, a designated employee will go the bathroom and unlock the door.

12. The men’s multiple-occupancy bathroom and the women’s multiple-occupancy bathroom on the first floor are kept unlocked.

13. The men’s multiple-occupancy bathroom and the women’s multiple-occupancy bathroom on the second floor are kept unlocked.

14. As of April 29, 2015, an elevator is used to provide access to and from the second floor. This elevator is behind a locked door. To utilize this elevator, a customer may press a button located on the side of the locked door that leads to corridor where the

elevator is located. This button triggers an alarm and strobe light in the employee crew area. When pressed, an employee will unlock the door and then use a passcard to activate the elevator controls and accompany the customer to the second floor in the elevator.

15. A customer may access the elevator on the second floor by pressing another button located next to a locked door that leads to a corridor where the elevator is located. This button triggers an alarm and strobe light in the employee crew area. When pressed, an employee will unlock the door and then use a passcard to activate the elevator controls and accompany the customer to the first floor in the elevator.

Dated: May 1, 2015
New York, New York

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